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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,120	01/14/2004	Yutaka Tohgi	0307682 H8059US	2960

7590 02/23/2007
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EXAMINER

EHICHIOYA, FRED I

ART UNIT	PAPER NUMBER
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2162

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/757,120

Applicant(s)

TOHGI ET AL.

Examiner

Fred I. Ehichioya

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to communication filed November 27, 2006.
2. Claims 1– 19 are pending in this Office Action.
3. This application claims priority of foreign application No. 2003-006114, filed on January 14, 2003.

Response to Arguments

4. Applicant argues:

Applicant argues that Kotani reference (US Pub. No. 2004/0126094) has a filing date of July 22, 2003, which is after the January 14, 2003 priority date of Document JP 2003-006114. Therefore, the rejections under 35 U.S.C § 103 of last Office Action should be withdrawn (page 8, paragraph 3).

Examiner respectfully disagrees with the applicant that the rejection of last Office Action should be withdrawn. However, examiner agrees with the applicant that Kotani reference was filed July 22, 2003 but has a priority date of document JP 2002-224884 filed August 1, 2002.

In determining priority of invention under MPEP 2217[R-5](g)(1), “there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other”. The priority date of Kotani (August 1, 2002) is earlier than applicant's claimed priority date (January 14,

2003); therefore, Kotani reference is available and valid as reference in prosecuting this instant application.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 – 4, 8 – 11, and 16 - 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,131,311 issued to Murakami et al (hereinafter “Murakami”) in view of US Pub. No. 2004/0126094 A1 issued to Takuya Kotani (hereinafter “Kotani”).

Regarding claim 1, Murakami discloses a performance information reproducing apparatus comprising:

a file storage device that stores a musical tone data file, in which musical tone information is recorded (column 2, lines 40 – 46: Examiner interprets “musical performance of the music data” as “musical tone information”), and at least one media data file, in which at least one other type of media information is recorded (column 4, lines 39 – 42: Examiner interprets “Image information” as “media information” that is been stored on “CD disk 10” which is been interpreted as “media data file”), together

with a management file in which reading manners of the musical tone data file and the media data files are recorded (Kotani: page 3, paragraph 55); and

a reproduction data generating device that generates, based on the musical tone data file (column 2, lines 46 – 49: Examiner interprets “reproducing means” as “reproduction data generating device”).

Murakami does not explicitly disclose management file as claimed.

Kotani discloses the management file (page 4, paragraph 61), reproduction data that designates the musical tone information and the media data file to be reproduced, using designation information in a same format as the musical tone information (page 3, paragraphs 53 – 54).

It would have been obvious to one of ordinary skills in the art at the time of the present invention to combine the cited references because Kotani's teaching of “management file” would allow Murakami's system to group or categorize media objects. The motivation is that these image, audio or movie data are separated into identical group and stored in one directory. This makes it easy and less expensive to locate these media information.

Regarding claim 2, Murakami and Kotani disclose the claimed subject matter as discussed in claim 1.

Murakami further discloses wherein said file storage device stores a plurality of media data files, in which a plurality of types of media information are recorded,

respectively (column 5, lines 55 – 68: Examiner interprets “image”, music data” as “media information”).

Regarding claim 3, Murakami and Kotani disclose the claimed subject matter as discussed in claims 1 and 2.

Katani further discloses wherein the plurality of media data files, in which the plurality of types of media information are recorded, respectively, comprise an audio data file, and a video data file (page 3, paragraph 53).

Regarding claim 4, Murakami and Kotani disclose the claimed subject matter as discussed in claim 1.

Katani further discloses wherein the management file comprises file names of the media data file (Fig. 2 and page 3, paragraph 55), and pieces of timing data indicative of timing of start of reproduction of the media data file, the file names and the pieces of timing data being arranged in order of reproduction (page 1, paragraph 11).

Regarding claim 8, Murakami discloses a performance information reproducing apparatus comprising:

a file storage device that stores a musical tone data file, in which musical tone information is recorded column 2, lines 40 – 46: Examiner interprets “musical performance of the music data” as “musical tone information”), and at least one media data file, in which at least one other type of media information is recorded (column 4,

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lines 39 – 42: Examiner interprets “Image information” as “media information” that is been stored on “CD disk 10” which is been interpreted as “media data file”), together with a management file in which reading manners of the musical tone data file and the media data files are recorded (Kotani: page 3, paragraph 55);

a reproduction data generating device that generates, based on the musical tone data file (column 2, lines 46 – 49: Examiner interprets “reproducing means” as “reproduction data generating device);

a reproduction data storage device that stores the generated reproduction data (column 3, line 54 – column 4, line 2);

a reading device that reads the reproduction data from said reproduction data storage device in accordance with reproduction clock for the musical tone information (Fig.8 (B) and column 6, lines 54 – 57);

and a reproducing device that reads the media data file designated by the read reproduction data, and reproduces the musical tone information in the reproduction data (column 3, line 54 – column 4, line 2) and the media information in the media data file in synchronism with each other (column 5, lines 20 – 22).

Murakami does not explicitly disclose management file as claimed.

Kotani discloses the management file (page 4, paragraph 61), reproduction data that designates the musical tone information and the media data file to be reproduced, using designation information in a same format as the musical tone information (page 3, paragraphs 53 – 54).

It would have been obvious to one of ordinary skills in the art at the time of the present invention to combine the cited references because Kotani's teaching of "management file" would allow Murakami's system to group or categorize media objects. The motivation is that these image, audio or movie data are separated into identical group and stored in one directory. This makes it easy and less expensive to locate these media information.

Regarding claim 9, Murakami and Kotani disclose the claimed subject matter as discussed in claim 8.

Murakami further discloses a performance information reproducing apparatus according to claim 8, wherein said file storage device stores a plurality of media data files, in which a plurality of types of media information are recorded, respectively (column 5, lines 55 – 68: Examiner interprets "image", music data" as "media information").

Regarding claim 10, Murakami and Kotani disclose the claimed subject matter as discussed in claims 8 and 9 respectively.

Katoni discloses a performance information reproducing apparatus according to claim 9, wherein the plurality of media data files, in which the plurality of types of media information are recorded, respectively, comprise an audio data tile, and a video data file (page 3, paragraph 53).

Regarding claim 11, Murakami and Kotani disclose the claimed subject matter as discussed in claim 8.

Katoni further discloses a performance information reproducing apparatus according to claim 8, wherein the management file comprises file names of the media data file (Fig. 2 and page 3, paragraph 55), and pieces of timing data indicative of timing of start of reproduction of the media data file, the file names and the pieces of timing data being arranged in order of reproduction (page 1, paragraph 11).

Claim 16 is essentially the same as claim 1 except that it sets forth the claimed invention as a method rather than an apparatus and therefore rejected for the same reasons as applied hereinabove.

Claim 17 is essentially the same as claim 8 except that it sets forth the claimed invention as a method rather than an apparatus and therefore rejected for the same reasons as applied hereinabove.

Claim 18 is essentially the same as claim 8 except that it sets forth the claimed invention as reproducing program rather than an apparatus and therefore rejected for the same reasons as applied hereinabove.

Claim 19 is essentially the same as claim 8 except that it sets forth the claimed invention as reproducing program rather than an apparatus and therefore rejected for the same reasons as applied hereinabove.

7. Claims 5 – 7, and 12 - 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murakami in view of Kotani and further in view of USPN 4,942,551 issued to Klappert et al (hereinafter “Klappert”).

Regarding claim 5, Murakami and Kotani disclose the claimed subject matter as discussed in claims 1 and 4 respectively.

Murakami or Kotani does not explicitly teach MIDI event as claimed.

Klappert discloses wherein the musical tone data file comprises MIDI events, and pieces of timing data indicative of MIDI clock timing of start of processing the MIDI event, the MIDI events and the pieces of timing data being arranged in order of reproduction (column 4, lines 49 – 56).

It would have been obvious to one of ordinary skills in the art at the time of the present invention to combine the cited references because Klappert’s teaching of “MIDI” would allow Murakami and Kotani’s system connect together music synthesizers, music instruments and computer. The motivation is that MIDI devices are used for creating, recording and playing back music. Incorporating MIDI device into Murakami and Kotani’s system simplifies the process of reproduction of musical data.

Regarding claim 6, Murakami, Kotani and Klappert disclose the claimed subject matter as discussed in claims 1, 4 and 5 respectively.

Kotani further discloses wherein the reproduction data comprises file names of the media data file, and pieces of timing data indicative of MIDI clock timing of start of reproduction of the media data file (Klappert: column 4, lines 49 – 56 “please refer rejection of claim 5”), the file names and the pieces of timing data being arranged in order of reproduction (Fig. 2 and page 3, paragraphs 55 and 56).

Regarding claim 7, Murakami, Kotani and Klappert disclose the claimed subject matter as discussed in claims 1, 4, 5 and 6 respectively.

Klappert further discloses wherein the timing data indicative of MIDI clock timing of start of reproduction of the media data file is generated from data indicative of timing recorded in the management file (column 4, lines 49 – 53).

Regarding claim 12, Murakami and Kotani disclose the claimed subject matter as discussed in claims 8 and 11 respectively.

Murakami or Kotani does not explicitly teach MIDI event as claimed.

Klappert discloses wherein the musical tone data file comprises MIDI events, and pieces of timing data indicative of MIDI clock timing of start of processing the MIDI event, the MIDI events and the pieces of timing data being arranged in order of reproduction (column 4, lines 49 – 56).

It would have been obvious to one of ordinary skills in the art at the time of the present invention to combine the cited references because Klappert's teaching of "MIDI" would allow Murakami and Kotani's system connect together music synthesizers, music instruments and computer. The motivation is that MIDI devices are used for creating, recording and playing back music. Incorporating MIDI device into Murakami and Kotani's system simplifies the process of reproduction of musical data

Regarding claim 13, Murakami, Kotani and Klappert disclose the claimed subject matter as discussed in claims 8, 11 and 12 respectively.

Kotani further discloses wherein the reproduction data comprises file names of the media data file, and pieces of timing data indicative of MIDI clock timing of start of reproduction of the media data file (Klappert: column 4, lines 49 – 56 "please refer rejection of claim 5"), the file names and the pieces of timing data being arranged in order of reproduction (Fig. 2 and page 3, paragraphs 55 and 56).

Regarding claim 14, Murakami, Kotani and Klappert disclose the claimed subject matter as discussed in claims 8, 11, 12 and 13 respectively.

Klappert further discloses wherein the timing data indicative of MIDI clock timing of start of reproduction of the media data file is generated from data indicative of timing recorded in the management file (column 4, lines 49 – 53).

Regarding claim 15, Murakami, Kotani and Klappert disclose the claimed subject matter as discussed in claims 8, 11, 12, 13 and 14 respectively.

Klappert further discloses wherein the reproduction clock for the musical tone information is MIDI clock, and wherein whenever timing corresponding to the timing data indicative of MIDI clock timing of start of reproduction of the media data file is reached, the media data file having the file name corresponding to the MIDI clock timing is read from said file storage device (column 5, lines 48 – 55).

Prior Art of Record

8. The Prior Art made of record but not relied upon are pertinent to the prosecution of this application:

- a. **GB 2,342,831 A** – Kosei Terada.
- b. **US Pub No. 2004/0050237 A1** – Seung-Yong Lee.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred I. Ehichioya whose telephone number is 571-272-4034. The examiner can normally be reached on M - F 8:00 AM to 4:30 PM.

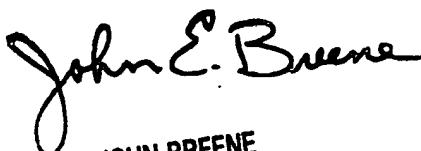
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on 571-272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fred I. Ehichioya
Patent Examiner
Art Unit 2162



February 6, 2007


JOHN BREENE
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